

Notice of Allowability

Application No.

10/073,012

Examiner

Marie R. Yamnitzky

Applicant(s)

KAMATANI ET AL.

Art Unit

1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to communications filed 26 Aug 2005, 28 Sep 2005 and 14 Nov 2005.
2. ☒ The allowed claim(s) is/are 57-89.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date rec'd 26 Aug 2005
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

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A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's amendment filed August 26, 2005, which amends the specification, cancels claims 48-56 and adds claim 89, has been entered.

The Information Disclosure Statement filed August 26, 2005 has been entered. The cited references have been considered and are made of record.

Certified translations of applicant's priority PCT application and three priority Japanese applications were received September 28, 2005, and have been entered.

The Rule 132 Declaration of Jun Kamatani, filed November 14, 2005, has been entered and considered.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The specification has been amended as follows:

Page 4, line 7: "phenylpyrimidine" has been changed to --phenylpyridine--.

Page 61, line 2: "14-2A" has been changed to --14-2B--.

Page 142, second line below the table: "excitor" has been changed to --exciton--.

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With respect to the issues raised in the Office action mailed May 26, 2005:

The objection to the amendment filed February 22, 2005 is overcome by amendment.

The two prior art rejections of claims 48-56 are rendered moot by claim cancellation.

The rejection of claims 57-88 under 35 U.S.C. 103(a) based on Igarashi et al. (US 2001/0019782 A1) is withdrawn in consideration of the data presented in the Rule 132 Declaration filed November 14, 2005.

The rejection of claims 57-88 under 35 U.S.C. 103(a) based on Kwong et al. (US 2003/0072964 A1) is withdrawn in part in consideration of the certified translations of applicant's foreign priority applications, particularly JP 064205/2001 (March 08, 2001) and JP 128928/2001 (April 26, 2001). To the extent that the foreign priority applications do not provide clear support for some substituents within the scope of R_1 to R_{10} as set forth in present claim 57, particularly phenyloxy (the fourth formula from the end of claim 57) and phenylethyl (the last formula in claim 57), the examiner withdraws the rejection in consideration of the data presented in the Rule 132 Declaration filed November 14, 2005.

Neither Igarashi et al. nor Kwong et al. disclose specific compounds within the scope of the present claims. The Rule 132 Declaration demonstrates superior/unexpected results attained by a compound within the scope of the present claims compared to a similar compound outside the scope of the present claims that is specifically disclosed by Igarashi et al. and within the generic disclosure of Kwong et al.

The reference made of record and not relied upon is considered pertinent to applicant's disclosure.

Lecloux et al. (US 2003/0096138 A1) disclose compounds within the scope of some of the present claims, and disclose their use in an organic luminescence device. Lecloux's complex 1-c is the compound of present claim 68. Lecloux's complex 1-d is the compound of present claim 77. See Fig. 2 and paragraphs [0002]-[0004], [0008] and [0072]. Lecloux's complexes 1-c and 1-d are disclosed in Lecloux's priority provisional application, filed November 07, 2001. However, in view of the certified translation of applicants' foreign priority applications, the examiner does not consider Lecloux's published application to be available as prior art against the present claims. While the specific compounds of present claims 68 and 77 are not disclosed in applicant's priority applications that predate Lecloux's effective U.S. filing date, it is the examiner's position that priority applications JP 064205/2001 (March 08, 2001) and JP 128928/2001 (04/26/2001) provide sufficient support for these species. These two priority applications disclose the compound of present claim 57 wherein R_1 to R_{10} are $-H$, and various substituted derivatives thereof. These two priority applications specifically disclose $-OCH_3$ as a suitable substituent (e.g. compound 247 in these two priority applications is the compound of present claim 71, which is a position isomer of the compound of present claim 77), and specifically disclose "linear or branched alkyl groups having 1 to 20 carbon atoms" as suitable substituents.

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Any inquiry concerning this communication should be directed to Marie R. Yamnitzky at telephone number (571) 272-1531. The examiner works a flexible schedule but can generally be reached at this number from 6:30 a.m. to 4:00 p.m. Monday, Tuesday, Thursday and Friday, and every other Wednesday from 6:30 a.m. to 3:00 p.m.

The current fax number for all official faxes is (571) 273-8300. (Unofficial faxes to be sent directly to examiner Yamnitzky can be sent to (571) 273-1531.)

MRY

November 17, 2005



**MARIE YAMNITZKY
PRIMARY EXAMINER**

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